

## **HOUSING IMPROVEMENT AREAS INFORMATIONAL SHEET**

The 1996 Minnesota State Legislature enacted a law (**428A.11**) intended to provide cities with a means of assisting homeowners associations, and the owners of housing units within the associations, in paying the costs of housing improvements made to the common elements of the development. In order for a city to provide such assistance, the City Council must first secure receive a petition from at least 50% of the homeowners within the housing development (designated area). The City Council must then designate the area in which the improvements are to be made as a Housing Improvement Area. The City Council may designate the City's Housing & Redevelopment Authority as the implementing entity responsible for implementing and administering the Housing Improvement Area.

The law, Minnesota Statutes, Sections 428A.11 to 428A.21, can seem complex at times. The following information is intended to assist in the understanding of that legislation and the process that must be followed if a Housing Improvement Area is to be designated.

1. **What is a Housing Improvement Area?** A Housing Improvement Area is a designated portion of the City in which housing improvements are financed, in whole or in part, with public funds that are repaid by fees imposed against the benefited housing units much in the same manner as property taxes or special assessments. The law is designed to assist areas where common elements of a development are maintained by condominium or home owners associations.
2. **What types of improvements can be included?** The enabling law provides that the improvements are to be made to the common elements of the housing structures. Common elements are generally those maintenance and capital improvement items which are the responsibility of the association and not the individual home owners such as windows, siding, roofing and parking lots resurfacing.
3. **When is a Housing Improvement Area designation appropriate?** A Housing Improvement Area can be established only if:
  - a. The proposed improvements to the common elements are necessary to maintain and preserve the housing units, and
  - b. The proposed improvements could not be incurred financially by the condominium or town home association or housing unit owner without financial hardship.
4. **What steps should an association take to be considered for Housing Improvement Area designation?**
  - a. The first step is for the association membership to meet and determine to the extent reasonably possible, the needed improvements to the common elements.
  - b. The next step is to obtain a reasonable estimate or estimates of the total costs of those

improvements.

- c. Once the costs have been estimated, the association should investigate all reasonable means of financing the improvements including any balance in the association treasury, additional fees imposed on the unit owners, private financing by the association and/or the individual owners, and any other possible housing improvement assistance.
- d. If all other means of financing the improvements are unsuccessful or provide an undue hardship on the owners, a petition signed by the owners of at least 50% of the housing units to be included in the proposed area may be filed with the City requesting that a Housing Improvement Area be designated. The petition should also request a public hearing on the imposition of a fee to pay for those improvements. A suggested petition form can be provided by the city.

## **5. What happens after an adequate petition is filed?**

- a. The petition is presented to the City Council who determines whether it contains all the required elements under the law and whether it contains at least the minimum number of required signatures. If the petition is found to be adequate and is accepted by the City Council a date for a public hearing is set.
- b. Prior to the public hearing, the City staff prepares a preliminary listing of the improvements proposed to be made. This list will require City employees, or a City designee, to view and inspect the property and discuss the problems with owners and/or members of the association.
- c. At the hearing staff will present its findings and owners will have an opportunity to present relevant testimony and issues related to the proposed area. The hearing is intended to assist the City Council in determining the proper boundaries of the area, the extent of the necessary improvements, and that there are no other available financing methods.
- d. If the City Council makes the required findings of need, it will adopt an ordinance establishing a Housing Improvement Area and may designate a Housing & Redevelopment Authority (“HRA”) as the implementing entity if they so choose. The ordinance will, among other things, designate the area, establish the improvements to be made, and determine the basis for the imposition of the fees. Fees may be based on the tax capacity of each unit, the square footage of each unit or some other method as determined by the City Council such as per unit basis. Under the State law, the ordinance takes effect 45 days after adoption. The ordinance must be adopted within six months of the close of the public hearing.
- e. After the ordinance is adopted, the City staff will work with the association to determine through estimates, bids, and similar methods the costs of the improvements.

- f. Once the costs have been determined to the extent possible a second public hearing is held at which time the owners may discuss the proposed fees in general, or they may question the fee proposed to be imposed against their individual unit. Within six months of the closing of this public hearing, the HRA will adopt a resolution imposing the fee. This fee may not exceed the amount stated in the hearing notice, but it may be less. The fees to be imposed are to be at a rate, term or amount sufficient to produce revenues required to make the improvements. The resolution takes effect 45 days after it is adopted. The fees will include an administrative charge and will be collected along with property taxes for the number of years established in the resolution. The fee may, however, be prepaid in full to avoid the payment of interest.

**6. What is the recourse of owners who disagree with the designation of the area or the imposition of the fee?**

- a. Before the ordinance is adopted, any owner may file a written objection claiming that the owner's property may be in the area or subject to the fee. The City Council then has 60 days to make a determination on this objection. This determination may be appealed to the District Court.
- b. After an ordinance or fee resolution is adopted, if owners of 45% of the properties located in the designated area file an objection to the ordinance or the fee resolution before the effective date, the ordinance or the resolution does not become effective. For this reason, the City and the HRA will want to be assured that the fees will be imposed before proceeding with the improvements.

**7. What are the obligations of the owners and the association after designation of a Housing Improvement Area?**

- a. Obviously, all parties need to cooperate with each other so the improvements can be made or constructed in a timely fashion.
- b. The State law requires that before the City/HRA adopts a fee resolution, the association must submit a financial plan. This plan has to be prepared by an independent third party acceptable to both the association and the City Council/HRA. A plan prepared by the association does not meet the requirements of the law. This plan must demonstrate how the association will be able to finance the maintenance and operation of the common elements of the development, and also demonstrate how the association will be able to conduct and finance capital improvements in the future. Without this plan the City Council/HRA may not wish to proceed with the improvements.
- c. On or before August 15<sup>th</sup> of each year, the association must provide the City/HRA with a copy of its audited financial statements. The City/HRA, as part of the original ordinance, may require the submission of additional information as well.

8. **How long does a Housing Improvement Area designation last?** The State law is not clear as to when and if a Housing Improvement Area designation expires. The law does currently provides that no new Housing Improvement Areas can be created after June 30, 2013 unless the City receives special legislation authorizing establishment of the area. The area will remain in effect at least as long as the term of the payment of fees.